KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

1200 19TH STREET, N.W.

SUITE 500

WASHINGTON, D.C. 20036

(202) 955-9600

FACSIMILE

(202) 955-9792

www.kelleydrye.com

NEW YORK, NY

TYSONS CORNER, VA

CHICAGO, IL

STAMFORD, CT

PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICES

JAKARTA, INDONESIA

MUMBAI, INDIA

DIRECT LINE: (202) 887-1211

EMAIL: bfreedson@kelleydrye.com

August 24, 2005

VIA HAND DELIVERY

Ms. Mary Cottrell, Secretary
Massachusetts Department of Telecommunications and Energy
One South Station, Second Floor
Boston, Massachusetts 02110

Re: D.T.E. 04-33: Petition of Verizon New England Inc. for Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Massachusetts, Pursuant to Section 252 of the Communications Act of 1934, as Amended, and the *Triennial Review Order*

Dear Secretary Cottrell:

XO Communications Services, Inc., through counsel, hereby submits an original and seven (7) copies of its Motion for Reconsideration of Arbitration Order in the above-captioned proceeding. Enclosed please also find one additional copy of this filing. Please date-stamp the additional copy upon receipt and return it to the courier.

Please feel free to contact the undersigned counsel at (202) 887-1211 if you have any questions or require further information.

Respectfully submitted,

Brett H Freedson

Brett Heather Freedson

cc: Service List

DC01/FREEB/237100.1

Before the
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Verizon New England Inc. for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Massachusetts Pursuant to Section 252 of the Communications Act of 1934, as Amended, and the *Triennial Review Order*	)	D.T.E. 04-33

MOTION FOR RECONSIDERATION OF ARBITRATION ORDER

XO Communications Services, Inc. (formerly XO Massachusetts, Inc. and Allegiance Telecom of Massachusetts, Inc.) ("XO"), through counsel and pursuant to the procedural rules of the Massachusetts Department of Telecommunications and Energy (the "Department"), 220 C.M.R. § 1.11(10), hereby submits this Motion for Reconsideration of certain issues decided by the Department in the consolidated interconnection agreement amendment arbitration proceeding between Verizon New England Inc. d/b/a Verizon Massachusetts ("Verizon") and competitive local exchange carriers ("CLECs") within the Commonwealth of Massachusetts, under section 252 of the Communications Act of 1934, as amended, 47 U.S.C. § 252 (the "1996 Act"). As discussed more fully below, certain of the Department's conclusions set forth in its final Arbitration Order[1] are inconsistent with the unbundling rules of the Federal Communications Commission ("FCC"),[2] and the unbundling determinations of the FCC in the *Triennial Review Order*[3] and the *Triennial Review Remand*

---

1 Arbitration Order in D.T.E. 04-33 (Jul. 14, 2005).

2 47 C.F.R. part 51.

3 *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers* (CC Docket No. 01-338); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* (CC Docket No. 96-98); *Deployment of Services Offering Advanced Telecommunications Capability* (CC Docket No. 98-147), Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36, 18 FCC Rcd 16978 (rel. Aug. 21, 2003) ("*Triennial Review Order*"), vacated and

Order[4] that form the legal basis for those rules. Accordingly, the Department should grant this Motion for Reconsideration, and order that Verizon and Massachusetts CLECs adopt the relevant contract language proposed by XO in the above-captioned proceeding.[5]

Under well-established Department precedent, reconsideration of a final decision is permitted where a conclusion by the Department is the result of mistake or inadvertence.[6] Thus, the Department is compelled to grant this Motion for Reconsideration of the issues set forth below where, as here, its Arbitration Order is inconsistent with the controlling rules and orders of the FCC. Clarification of an order previously issued by the Department also may be granted where an order is silent as to disposition of a specific issue requiring determination in the order, or when the order contains language that is sufficiently ambiguous as to leave doubt as to meaning.[7] By this Motion, XO further requests clarification that Verizon is required to perform the functions necessary to effectuate commingling and routine network modifications, as requested by any Massachusetts CLEC, after July 14, 2005.

I. THE AMENDMENT MUST DEFINE "COMMINGLING" [ISSUE 9]

Under the Arbitration Order, the Department required that the Definitions section of the Amendment include only a small number of terms impacted by changes to the FCC's

---

remanded in part, *United States Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. 2004) ("*USTA II*").

4 *In the Matter of Unbundled Access to Network Elements* (WC Docket No 04-313); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers* (CC Docket No. 01-338), Order on Remand, FCC 04-290 (rel. Feb. 4, 2005) ("*Triennial Review Remand Order*").

5 XO is a party to the proposed interconnection agreement amendment submitted by the Competitive Carrier Group, dated March 18, 2005.

6 *Massachusetts Electric Company*, D.P.U. 90-261-B at 7 (1991); *New England Telephone and Telegraph Company*, D.P.U. 86-33-J at 2 (1989); *Boston Edison Company*, D.P.U. 1350-A at 5 (1983).

7 *Boston Edison Company*, D.P.U. 92-1A-B at 4 (1993); *Whittinsville Water Company*, D.P.U. 89-67-A at 1-2 (1989).

unbundling rules arising under the *Triennial Review Order* and the *Triennial Review Remand Order*, and notably excluded from the Amendment a number of terms proposed by Massachusetts CLECs that the Department found were "already defined and were not modified" by those orders.[8] Specifically, the Department concluded that the Amendment need not expressly define the term "commingling," as that term is defined in the *Triennial Review Order* and the FCC's unbundling rules.[9] This conclusion directly contradicts the Department's previous conclusion that the *Triennial Review Order*, that imposes on incumbent LECs, including Verizon, a **new** obligation to perform the necessary functions to effectuate commingling.[10] Accordingly, consistent with the Department's reading of the *Triennial Review Order*, the existing interconnection agreements between Verizon and Massachusetts CLECs must be amended to incorporate the definition of "commingling" added to the FCC's unbundling rules, at 47 C.F.R. § 51.5.

Under the *Triennial Review Order*, the FCC expressly amended its existing rules to include a definition of the term "commingling" consistent with the unbundling determinations set forth therein.[11] The *Triennial Review Order* added to 47 C.F.R. § 51.5 the following definition of the term "commingling," that describes the unbundling obligation imposed on incumbent LECs, including Verizon, by the FCC:

> Commingling means the connecting, attaching, or otherwise linking of an unbundled network element, or a combination of unbundled network elements, to one or more facilities or services

---

8 Arbitration Order at 90.

9 *Id.* at 90, n. 44.

10 Although certain Massachusetts CLECs, including XO, argued before the Department that a formal interconnection agreement amendment is not required to implement the commingling obligations imposed by the *Triennial Review Order*, the Department disagreed, stating that such obligations constitute a "change of law." Arbitration Order at 135.

11 *See Triennial Review Order* at ¶ 579.

> that a requesting telecommunications carrier has obtained at wholesale from an incumbent LEC, or the combining of an unbundled network element, or a combination of unbundled network elements, with one or more such facilities or services.[12]

As the Department found, the *Triennial Review Order* affirmatively permits a requesting telecommunications carrier to commingle a UNE or UNE combination with one or more facilities or services that a requesting carrier has obtained at wholesale from an incumbent LEC pursuant to a method other than unbundling under section 251(c)(3) of the 1996 Act.[13] Thus, the *Triennial Review Order* imposed on incumbent LECs, including Verizon, a new commingling obligation that must be reflected, and precisely defined, in the Amendment.

Importantly, the existing interconnection agreements between Verizon and Massachusetts CLECs, including XO, do not reflect the definition of the term "commingling" established by the *Triennial Review Order*, and set forth in the FCC's current unbundling rules. Those agreements, which pre-date the *Triennial Review Order*, did not contemplate the new commingling obligation established by the FCC. Rather, the existing interconnection agreements between Verizon and Massachusetts CLECs, including XO, either are silent with respect to commingling, or are consistent with prior commingling restrictions for stand-alone loops and enhanced extended loops ("EELs") adopted by the FCC in the *Supplemental Order Clarification*.[14] Therefore, those agreements do not reflect the commingling requirements imposed on Verizon by current federal law. Thus, as mandated by section 252 of the 1996 Act

---

12 47 C.F.R. § 51.5.

13 *Triennial Review Order* at ¶ 579.

14 *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996* (CC Docket No. 96-98), Supplemental Order Clarification, FCC 00-183, 15 FCC Rcd 9587 (rel. Jun. 2, 2000), *aff'd sub nom.*, *CompTel v. FCC*, 309 F.3d 3 (D.C. Cir. 2002) ("*Supplemental Order Clarification*").

and the *Triennial Review Order*,[15] the parties must implement the obligation of Verizon to commingle section 251 UNEs and UNE combinations with facilities and services obtained by Massachusetts CLECs at wholesale from Verizon through a written amendment to existing interconnection agreements.

In the Arbitration Order, the Department determined that "the FCC's new rules for conversions and commingling constitute a change of law."[16] Therefore, the conclusion of the Department that the term "commingling" was not redefined or modified by the *Triennial Review Order* suggests a glaring inconsistency in the Department's legal analysis. The Department must reconsider its decision to exclude from the Amendment contract language that properly implements the definition of "commingling" established by the *Triennial Review Order*, and added to the FCC's unbundling rules, at 47 C.F.R. § 51.5. The contract language proposed by XO accurately defines the term "commingling," as ordered by the FCC, and therefore should be adopted by the Department.[17]

II. THE DEPARTMENT MUST CLARIFY THAT THE EFFECTIVE DATE OF VERIZON'S COMMINGLING AND ROUTINE NETWORK MODIFICATION OBLIGATIONS UNDER THE *TRIENNIAL REVIEW ORDER* IS JULY 14, 2005 [ISSUE 14]

In the Arbitration Order, the Department concluded that "the Amendment, including provisions concerning commingling and conversions, should be given effect as of the issuance date of th[e] Order, unless the parties explicitly agree to a different effective date."[18] Therefore, in Massachusetts, the commingling and routine network modification obligations imposed on Verizon by the *Triennial Review Order* and the FCC's unbundling rules, including

---

15 *See Triennial Review Order* at ¶ 700.

16 Arbitration Order at 135.

17 *See* Proposed Amendment of the Competitive Carrier Group at § 2.6.

18 Arbitration Order at 189.

Verizon's obligation to perform the necessary functions to effectuate commingling and routine network modifications, became effective on July 14, 2005. Consistent with the Arbitration Order,[19] XO requests clarification by the Department that Verizon must: (1) process all CLEC orders submitted after July 14, 2005 to commingle section 251 UNEs and UNE combinations with services and facilities that requesting telecommunications carriers have obtained at wholesale from Verizon; and (2) perform routine network modifications, regardless of whether the Amendment has been executed by the parties.[20] Moreover, the Department must expressly preclude blatant efforts by Verizon to delay implementing the commingling routine network modification obligations imposed by the *Triennial Review Order* – nearly two ago – until such time as the parties execute a written amendment to existing interconnection agreements.[21]

In the alternative, the Department must order that Verizon and Massachusetts CLECs immediately execute a written amendment to existing interconnection agreements that properly implements the commingling and routine network modification obligations imposed on Verizon by the *Triennial Review Order* and the FCC's unbundling rules. Verizon has made clear that it does not intend to honor the July 14, 2005 effective date ordered by the Department to perform the functions necessary to effectuate commingling and routine network modifications.[22] Accordingly, if necessary, the Department must affirmatively enforce the commingling

---

19 *Id.*

20 *Id.* ("In this Order, we resolve the issues raised by the parties to this arbitration and find no need to delay the effectiveness of [its] rulings while the parties incorporate these rulings into the final amendment language.")

21 Subsequent to the issue date of the Arbitration Order, Verizon stated to Massachusetts CLECs that the Amendment "may not be executed until such time as the [Department] decides any such issues on reconsideration and the amendment has been revised as necessary to reflect any such decisions. Email Correspondence from Anthony M. Black, Verizon to Service List Parties in D.T.E. 04-33 Re: Verizon's Conforming Amendment for MA (Aug. 12, 2005) (Exhibit A).

22 *Id.*

obligations established by the FCC through the section 252 interconnection agreement amendment process.

III. THE DEPARTMENT MUST CLARIFY THAT DE-LISTED SECTION 251 UNES REMAIN SUBJECT TO TRANSITION PRICING WHERE NO PHYSICAL CHANGE TO EXISTING CIRCUITS IS REQUIRED TO EFFECTUATE COMMINGLING [ISSUE 12, 20,24]

Under the Arbitration Order, the Department concluded that commingling of de-listed section 251 UNEs, including DS1 and DS3 dedicated transport circuits, constitutes a "change" to existing facilities that effectively would remove such facilities from the requesting CLEC's embedded base, and thus, would deny the requesting CLEC the opportunity to avail itself of the transition rates to which it otherwise is entitled for the affected circuits.[23] Verizon need not make any physical change to existing DS1 and DS3 dedicated transport circuits to effectuate the commingling obligations imposed by the *Triennial Review Order* and the FCC's unbundling rules. The assignment of new identification numbers to commingled arrangements is undertaken at Verizon's election, and solely for the purpose of Verizon's administrative ease. A ruling by the Department that would subject Massachusetts CLECs to higher wholesale rates where a de-listed section 251 UNE is commingled with a service or facility provided by Verizon pursuant to any method other than section 251 unbundling is tantamount to a monetary penalty imposed on commingling. Therefore, the Department must clarify that commingling of a de-listed section 251 UNE does not constitute a "change" where no physical change to the facility takes place, such as where Verizon, at its discretion, undertakes to assign a new circuit identification number.

---

[23] Arbitration Order at 141.

IV. THE DEPARTMENT SHOULD NOT REQUIRE CIRCUIT-BY-CIRCUIT RE-CERTIFICATION OF ALL PRE-*TRIENNIAL REVIEW ORDER* EELS [ISSUES 12, 20, 24]

Under the Arbitration Order, the Department endorsed contract language proposed by Verizon that requires Massachusetts CLECs to re-certify, on a circuit-by-circuit basis, that all EELs existing on the effective date of *Triennial Review Order* comply with the service eligibility criteria established by the FCC, and set forth in the FCC's unbundling rules at 47 C.F.R. § 51.318.[24] The conclusion of the Department finds no support in the *Triennial Review Order*, which is silent regarding treatment of EELS lawfully obtained by CLECs under the FCC's prior "safe harbor" rules.[25] Accordingly, consistent with the *Triennial Review Order*, the Department must reconsider its decision to impose on Massachusetts CLECs an obligation to submit to Verizon written re-certification of compliance, on a circuit-by-circuit basis, for all embedded EELs.

Under the *Triennial Review Order*, the FCC expressed no intent to limit the availability of EELs provided by the incumbent LECs, including Verizon, to requesting telecommunications carriers. To the contrary, the FCC's rule implementing the service eligibility criteria for high capacity EELs explicitly applies only on a prospective basis, where a requesting telecommunications carrier seeks access to network elements to "**establish a new circuit or to convert an existing circuit from a service to unbundled network elements.**"[26] Neither the *Triennial Review Order*, nor the FCC's unbundling rules promulgated thereunder, establish a "re-certification" process for EELs obtained by CLECs under the FCC's prior "safe harbor" rules that effectively would eliminate arrangements complying with the predecessor

---

24 *Id.* at 129.

25 *Supplemental Order Clarification* at ¶ 22.

26 47 C.F.R. 51.318(a) (emphasis added).

regulatory framework. The contract language proposed by Verizon, and approved by the Department, is inconsistent with the FCC's approach, and would impose on Massachusetts CLECs additional burdens and expenses to re-certify existing EELS, and in so doing, may ultimately reduce the availability of EELs in a manner not contemplated by the FCC. Accordingly, the Department must reconsider its decision to include in the Amendment a requirement that Massachusetts CLECs re-certify, on a circuit-by-circuit basis, that all EELs existing on the effective date of the *Triennial Review Order* comply with the service eligibility criteria set forth in the FCC's unbundling rules, at 47 C.F.R. § 51.318.

V. THE DEPARTMENT SHOULD ADOPT A PROCESS TO VERIFY "NON-IMPAIRMENT" WIRE CENTER DESIGNATIONS BY VERIZON [SUPPLEMENTAL ISSUES 1, 2, 3]

In the Arbitration Order, the Department correctly concluded that the list of wire centers submitted to the FCC by Verizon, and asserted by Verizon to exceed the thresholds for section 251 loop and dedicated transport unbundling relief established by the *Triennial Review Remand Order*, "is not conclusive as to whether a particular wire center in fact satisfies the non-impairment criteria."[27] However, the Arbitration Order also unduly limits processes available to Massachusetts CLECs and the Department under the Amendment to confirm the accuracy of Verizon's claims that wire center and route locations are not subject to section 251 loop and dedicated transport unbundling obligations.[28] At a minimum, the Department must provide a forum to verify Verizon's application of the criteria for section 251 loop and dedicated transport unbundling relief, as directed by the *Triennial Review Remand Order* and the FCC's unbundling rules. The decision of the Department to forego verifying Verizon's list designating wire center and route locations where unbundled loops and dedicated transport facilities no longer are

---

27 Arbitration Order at 279.

28 *Id.*

available under section 251(c)(3) of the 1996 Act effectively deprives Massachusetts CLECs any opportunity to access,[29] or undertake a meaningful review of the factual data supporting Verizon's claims that unbundling relief is available,[30] and in turn, frustrates CLECs' diligent efforts to self-certify that a specified wire center or route location in fact does not exceed the thresholds for unbundling relief established by the FCC, under the *Triennial Review Remand Order*. The Department's approach to applying the FCC's unbundling framework for de-listed local circuit switching, loops and dedicated transport facilities severely undermines regulatory certainty essential to developing CLEC business plans, and therefore must be reconsidered as requested by this Motion.

The FCC did not contemplate that the CLEC self-certification process set forth in the *Triennial Review Remand Order* serve as the exclusive means of addressing disagreements between requesting CLECs and the incumbent LECs regarding the proper application of the criteria established for section 251 loop and dedicated transport unbundling relief.[31] Indeed, while the *Triennial Review Remand Order* allows an incumbent LEC to dispute provisioning any section 251 UNE before the appropriate state commission, the FCC expressly stated that the

---

29 In the *Triennial Review Remand Order*, the FCC recognized that CLECs may not have in its possession all the data necessary to apply the thresholds for section 251 unbundling relief. The FCC stated: ". . . the requesting carrier seeking access to the UNE . . . is unlikely to have in its possession all information necessary to evaluate whether the network element meets the factual impairment criteria in our rules." *Triennial Review Remand Order* at ¶ 234, n. 659. For this reason, XO has repeatedly asked Verizon for the necessary data to confirm Verizon's list, and has even done so in response to a Verizon Notice of Dispute Resolution in which Verizon claims that XO is not complying with Verizon's wire center designations. However, Verizon has consistently refused to provide the requested information.

30 For example, CLECs must be entitled to confirm that Verizon has not overstated the number of wire centers in Massachusetts that satisfy the criteria for section 251 unbundling relief by double-counting fiber-based collocators, or by interpreting the FCC's rules in a manner that inflates the business line count at a particular location. XO is aware that Verizon already has overstated the number of fiber-based collocators because it has counted XO and Allegiance operating subsidiaries, now merged into a single entity, as two fiber-based collocators.

31 *Triennial Review Remand Order* at ¶ 234.

process suggested for addressing incumbent LEC challenges to self-certified CLEC requests for unbundled loops and dedicated transport facilities "**is simply a default process**, and pursuant to section 252(a)(1), carriers remain free to negotiate alternative arrangements."[32] Thus, the *Triennial Review Remand Order* does not foreclose the Department from approving, in the course of the section 252 interconnection amendment arbitration process, contract language that provides both Verizon and Massachusetts CLECs with the certainty that a wire center verification process overseen by the Department would provide. In addition the process set forth in the *Triennial Review Remand Order*, the interconnection agreement amendment proposed by XO reasonably provides the parties a mutual opportunity to analyze claims by Verizon that unbundled loops or dedicated transport facilities requested by a CLEC at a specified wire center or route location are no longer available under section 251(c)(3) of the 1996 Act.[33]

The self-certification and dispute resolution process approved by the Department does not, by itself, provide adequate regulatory certainty critical to the stability of CLECs' business plans within Massachusetts. Indeed, the possibility of future litigation initiated by Verizon, for the purpose of challenging a requesting carrier's self-certified order for UNEs that Verizon claims no longer are available under section 251(c)(3) of the Act, threatens to consume substantial CLEC resources, as may be necessary to defend each such unbundling order, on a case-by-case basis. Moreover, in the event that Verizon prevails challenging a self-certified CLEC order for "de-listed" UNE loops or UNE dedicated transport facilities, the requesting carrier will be subject to retroactive billing of higher wholesale rates. Therefore, in order to avoid the burden and expense of multiple, successor proceedings, the Department must approve contract language that provides a process to permit the parties to verify Verizon's designation of

---

32 *Id.* (emphasis added).

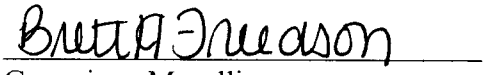
33 Proposed Amendment of the Competitive Carrier Group at § 3.10.

wire center and route locations that it claims exceed the thresholds set forth in the *Triennial Review Remand Order*.

CONCLUSION

For the reasons set forth herein, XO Communications Services, Inc. respectfully requests that the Department grant this Motion for Reconsideration, and order that Verizon and Massachusetts CLECs adopt the relevant contract language proposed by XO in the above-captioned proceeding.

Respectfully submitted,



Genevieve Morelli
Brett Heather Freedson
KELLEY DRYE & WARREN LLP
1200 Nineteenth Street, N.W.
Suite 500
Washington, D.C. 20036
(202) 955-9600 (telephone)
(202) 955-9792 (facsimile)

Counsel to XO Communications Services, Inc.

Dated: August 24, 2005

EXHIBIT A

From: anthony.m.black@verizon.com
Sent: Friday, August 12, 2005 4:53 PM
To: jegruber@lga.att.com; mconsalvo@lga.att.com; bkelleher@lga.att.com; greghoffman@lga.att.com; ksalinger@palmerdodge.com; rdowling@palmerdodge.com; richard.fipphen@mci.com; karen.r.sistrunk@mail.sprint.com; rmblau@swidlaw.com; mwfleming@swidlaw.com; pjmacres@swidlaw.com; Freedson, Brett; Morelli, Genevieve; dougdb@rnktel.com; andrew.klein@DLAPiper.com; bkeener@brahmacom.com; ssawyer@conversent.com; gkennan@conversent.com; kristin.smith@qwest.com; lsteinhart@telecomcounsel.com; jennifer@bayring.com; bthayer@bayring.com; aeconomou@mettel.net; lmaese@mettel.net; jodi.caro@lglass.net; kduarte@volocommunications.com; chris@coretel.net; pkaroczkai@infohighway.com; pbulloch@infohighway.com; kdonohue@infohighway.com; rsommi@broadviewnet.com; boberlin@bullseyetelecom.com; beth_choroser@comcast.com; stacey_parker@cable.comcast.com; thansel@covad.com; sdandley@dscicorp.com; michael_shortley@globalcrossing.com; skellogg@veranet.net; carl.billek@corp.idt.net; andrew.fisher@corp.idt.net; mabrow@kmctelecom.com; rpifer@kmctelecom.com; lisa.evans@spectrotel.com; fmccomb@talk.com; doug.kinkoph@xo.com; rex.knowles@xo.com; m.goldey@mindspring.com; dberndt@lightship.com; karen.potkul@xo.com; ekrathwohl@richmaylaw.com
Cc: bruce.p.beausejour@verizon.com; kimberly.caswell@verizon.com; alexander.w.moore@verizon.com; james.c.dail@verizon.com
Subject: Verizon's Conforming Amendment for MA


MA Conforming Amendment 8-12-..


MA Conforming Amendment Rate S..

Attached is Verizon Massachusetts' draft Amendment and Pricing Attachment that conform to the Massachusetts DTE's July 14, 2005 arbitration order in Docket 04-33. As required by the DTE's order, Verizon has consolidated its two amendments (Amendments 1 and 2) into a single amendment.

The attached amendment reflects all rulings in the DTE's July 14 order, including those with which Verizon disagrees. Verizon reserves its rights to seek reconsideration of any rulings. This amendment may not be executed until such time as the DTE decides any such issues on reconsideration and the amendment has been revised as necessary to reflect any such decisions. In the meantime, however, the DTE's July 14 order requires the parties to file a conforming amendment, applicable to all parties, that reflects the rulings in that order. The DTE has granted an extension of time for filing the conforming amendment to September 14.

If you wish to suggest any changes to the attached amendment that you believe are necessary to conform to the DTE's July 14 order, Verizon asks that you please provide a redlined document at your earliest convenience. Given the due date for filing of a conforming amendment, we encourage you to provide your redlined versions to us by August 26th to accommodate discussions before the filing date. We also hope that CLECs will coordinate their responses to the extent possible. Please send any suggested changes by email to Jim Dail (who is copied on this email) and me, with a copy to any other Verizon negotiator with whom you may have negotiated in the past.

Finally, please note that the DTE, in its July 14 order, ruled that: 1) Verizon had correctly interpreted certain agreements not to require an amendment in order for Verizon to cease providing discontinued UNEs under the FCC's Triennial Review Order, and 2) the rulings in its July 14 order became effective as of the issuance date (except that the FCC's transition rules for line sharing under the TRO and for high capacity loops and transport and mass market UNE-P under the Triennial Review Remand Order already took effect by operation of law), and such effectiveness is not delayed while the parties incorporate the rulings into amendment language. Verizon does not waive any rights as to the above rulings by offering the attached conforming amendment as required by the DTE's order.

Anthony M. Black
Assistant General Counsel

Verizon
1515 N. Court House Road
Suite 500
Arlington, VA 22201
Ph. 703-351-3025
Fax. 703-351-3664
anthony.m.black@verizon.com
(See attached file: MA Conforming Amendment 8-12-05.DOC)(See attached file: MA Conforming Amendment Rate Sheet 8-12-05.DOC)